



**Office of Emergency Management**

**City of Kirby**

**5560 Duffek Drive**

**Kirby, Texas 78219**

**Phone: (210) 661-2612**

**Fax: (210) 661-8074**

**DECLARATION OF PUBLIC HEALTH EMERGENCY No. 5**

**May 5, 2020**

WHEREAS, in December 2019 a novel coronavirus, now designated COVID-19, was detected in Wuhan City, Hubei Province, China, with symptoms including fever, cough, and shortness of breath, and patient outcomes ranging from mild to severe illness, and in some cases death; and

WHEREAS, on January 30, 2020, the World Health Organization Director General declared the outbreak of COVID-19 as a Public Health Emergency of International Concern (PHEIC), advising countries to prepare for the containment, detection, isolation and case management, contact tracing and prevention of onward spread of the disease; and

WHEREAS, United States nationals were transported from Wuhan City, China to several secure locations within the United States identified by the Centers for Disease Control (CDC), including Joint Base San Antonio-Lackland (Lackland) in San Antonio, Texas, in order to ensure the health and wellbeing of those persons; and

WHEREAS, on March 11, 2020, the World Health Organization declared that the COVID-19 outbreak should be characterized as pandemic; and

WHEREAS, on March 13, 2020, Greg Abbott, the Governor of the State of Texas, issued a proclamation that declared COVID-19 as an imminent threat of disaster; and

WHEREAS, on March 15, 2020, the CDC issued revised guidance regarding social distancing and mass gatherings of 50 or more people; and

WHEREAS, on March 16, 2020, the CDC issued further revised guidance that persons should avoid social gatherings in groups of more than 10 people; and

WHEREAS, the identification of “community spread” cases of COVID-19 in the United States signals that transmission of the virus is no longer strictly limited to travel to China, or contact with travelers who have visited China; and

WHEREAS, on March 12, 2020, Bexar County/San Antonio confirmed their first case of travel-related COVID-19; and

WHEREAS, on March 29, 2020, to avoid scenarios that could lead to hundreds of thousands of deaths, Donald Trump, the President of the United States of America, announced that based on advice from Dr. Anthony Fauci and Dr. Deborah Birx, the restrict social-distancing Guidelines should extend through April 30, 2020; and



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WHEREAS, DSHS Commissioner Dr. Hellerstedt and White House Coronavirus Response Coordinator D. Birx say that the spread of COVID-19 can be reduced by minimizing social gatherings; and

WHEREAS, on March 28, 2020 the U. S. Department of Homeland Security issued its Guidance on the Essential Critical Infrastructure Workforce, Version 2.0, which provided an advisory list of critical-infrastructure sectors, workers, and functions that should continue during the COVID-19 response; and

WHEREAS, for state agencies and their employees and agents, the Office of the Attorney General of Texas has advised that local restriction issued in response to the COVID-19 disaster do not apply to restrict the conduct of state business; and

WHEREAS, all government entities and businesses should be allowed to continue providing essential services during the COVID-19 disaster, and all critical infrastructure should be allowed to remain operational; and

WHEREAS, pursuant to the Texas Disaster Act of 1975 codified in Chapter 418 of the Texas Government Code, the legislature has given the governor broad authority to meet the danger to the state and people presented by disasters and may issue Executive Orders in that regard; and

WHEREAS, under Section 418.017(a), the “governor may use all available resources of state government and of political subdivisions that are reasonably necessary to cope with a disaster;” and

WHEREAS, under Section 418.017(c), the “governor may control ingress and egress to and from a disaster area and the movement of person and the occupancy of premises in the area;” and

WHEREAS, under Section 418.173, failure to comply with an executive order, issued during the COVID-19 disaster is an offense punishable by a fine not to exceed \$1,000, confinement in jail for a term not to exceed 180 days, or both fine and confinement and;

WHEREAS, Greg Abbott, Governor of Texas, by virtue of the power and authority vested in him by the Constitution and laws of the State of Texas, issued Executive Order GA-14 on a statewide basis effective 12:01 on April 2, 2020, and continuing through April 30, 2020 subject to extension based on the status of COVID-19 in Texas and the recommendations of the CDC and the White House Coronavirus Task Force, which set out definitions of essential services and of exempted business and exempt individual activities; and, to, except where necessary to provide or obtain essential services, ordered every person in Texas to minimize social gatherings and minimize in-person contact with people who are not in the same household; and



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WHEREAS, GA-14 also provided that in providing or obtaining essential services, people and business should follow the Guideline from the President and the CDC by practicing good hygiene, environmental cleanliness, and sanitation, implementing social distancing, and working from home if possible, stating that, in particular, all services should be provided through remote telework from home unless they are essential services that cannot be provided through remote telework and that if religious services cannot be conducted from home or through remote services, they should be conducted consistent with the Guidelines from the President and the CDC by practicing good hygiene, environmental cleanliness, and sanitation, and by implementing social distancing to prevent the spread of COVID-19; and

WHEREAS, GA-14 did state that people shall not visit nursing homes, state supported living centers, assisted living facilities, or long-term care facilities unless to provide critical assistance as determined through guidance from the Texas Health and Human Services Commission; and

WHEREAS, by Executive Order GA-16 issued on April 17, 2020, Governor Abbott ordered the following on a statewide basis effective immediately, and continuing through April 30, 2020, subject to extension based on the status of COVID-19 in Texas and the recommendations of the CDC and the White House Coronavirus Task Force:

In accordance with guidance from DSHS Commissioner Dr. Hellerstedt, and to achieve the goals established by the President to reduce the spread of COVID-19, every person in Texas shall, except where necessary to provide or obtain essential services or reopened services, minimize social gatherings and minimize in-person contact with people who are not in the same household.

“Essential services” shall consist of everything listed by the U.S. Department of Homeland Security (DHS) in its Guidance on the Essential Critical Infrastructure Workforce, Version 2.0 or any subsequent version, plus religious services conducted in churches, congregations, and houses of worship. Other essential services may be added to this list with the approval of the Texas Division of Emergency Management (TDEM). TDEM shall maintain an online list of essential services, as specified in this executive order and any approved additions. Requests for additions should be directed to TDEM at [EssentialServices@tdem.texas.gov](mailto:EssentialServices@tdem.texas.gov) or by visiting [www.tdem.texas.gov/essentialservices](http://www.tdem.texas.gov/essentialservices).

“Reopened services” shall consist of:

- Starting at 12:01 a.m. on Friday, April 24, 2020, retail services that are not “essential services,” but that may be provided through pickup, delivery by mail, or delivery to the customer’s doorstep in strict compliance with the terms required by DSHS. The DSHS requirements may be found at [www.dshs.texas.gov/coronavirus](http://www.dshs.texas.gov/coronavirus).



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- Such additional services as may be enumerated by future executive orders or proclamations by the governor.

In providing or obtaining essential services or reopened services, people and businesses should follow the Guidelines from the President and the CDC by practicing good hygiene, environmental cleanliness, and sanitation, implementing social distancing, and working from home if possible. In particular, all such services should be provided through remote telework from home unless they cannot be provided through remote telework. Religious services should be conducted in accordance with the Guidelines for Houses of Worship During the COVID-19 Crisis, as promulgated by the attorney general and governor.

In accordance with the Guidelines from the President and the CDC, people shall avoid eating or drinking at bars, restaurants, and food courts, or visiting gyms, massage establishments, tattoo studios, piercing studios, or cosmetology salons; provided, however, that the use of drive-thru, pickup, or delivery options for food and drinks is allowed and highly encouraged throughout the limited duration of this executive order.

This executive order does not prohibit people from accessing essential or reopened services or engaging in essential daily activities, such as going to the grocery store or gas station, providing or obtaining other essential or reopened services, visiting parks, hunting or fishing, or engaging in physical activity like jogging or bicycling, so long as the necessary precautions are maintained to reduce the transmission of COVID- 19 and to minimize in-person contact with people who are not in the same household.

In accordance with the Guidelines from the President and the CDC, people shall not visit nursing homes, state supported living centers, assisted living facilities, or long-term care facilities unless to provide critical assistance as determined through guidance from the Texas Health and Human Services Commission (HHSC). Nursing homes, state supported living centers, assisted living facilities, and long-term care facilities should follow infection control policies and practices set forth by the HHSC, including minimizing the movement of staff between facilities whenever possible.

In accordance with the Guidelines from the President and the CDC, schools shall remain temporarily closed to in-person classroom attendance by students and shall not recommence before the end of the 2019-2020 school year. Public education teachers and staff are encouraged to continue to work remotely from home if possible but may return to schools to conduct remote video instruction, as well as perform administrative duties, under the strict terms required by the Texas Education Agency. Private schools and institutions of higher education should establish similar terms to allow teachers and staff to return to schools to conduct remote video instruction and perform administrative duties when it is not possible to do so remotely from home.



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This executive order shall supersede any conflicting order issued by local officials in response to the COVID-19 disaster, but only to the extent that such a local order restricts essential services or reopened services allowed by this executive order or allows gatherings prohibited by this executive order. I hereby suspend Sections 418.1015(b) and 418.108 of the Texas Government Code, Chapter 81, Subchapter E of the Texas Health and Safety Code, and any other relevant statutes, to the extent necessary to ensure that local officials do not impose restrictions inconsistent with this executive order, provided that local officials may enforce this executive order as well as local restrictions that are consistent with this executive order; and

WHEREAS, on April 27, 2020, Governor Abbott issued GA-18 which authorized re-opening of certain businesses effective at 12:01 a.m. on May 1, 2020 and provides in part as follows

NOW, THEREFORE, I, Greg Abbott, Governor of Texas, by virtue of the power and authority vested in me by the Constitution and laws of the State of Texas, do hereby order the following on a statewide basis effective immediately, and continuing through May 15, 2020, subject to extension based on the status of COVID-19 in Texas and the recommendations of the Governor's Strike Force to Open Texas, the White House Coronavirus Task Force, and the CDC:

In accordance with guidance from DSHS Commissioner Dr. Hellerstedt, and to achieve the goals established by the President to reduce the spread of COVID-19, every person in Texas shall, except where necessary to provide or obtain essential services or reopened services, minimize social gatherings and minimize in-person contact with people who are not in the same household. People over the age of 65, however, are strongly encouraged to stay at home as much as possible; to maintain appropriate distance from any member of the household who has been out of the residence in the previous 14 days; and, if leaving the home, to implement social distancing and to practice good hygiene, environmental cleanliness, and sanitation.

“Essential services” shall consist of everything listed by the U.S. Department of Homeland Security (DHS) in its Guidance on the Essential Critical Infrastructure Workforce, Version 3.0 or any subsequent version, plus religious services conducted in churches, congregations, and houses of worship. Other essential services may be added to this list with the approval of the Texas Division of Emergency Management (TDEM). TDEM shall maintain an online list of essential services, as specified in this executive order and any approved additions. Requests for additions should be directed to TDEM at [EssentialServices@tdem.texas.gov](mailto:EssentialServices@tdem.texas.gov) or by visiting the TDEM website at [www.tdem.texas.gov/essentialservices](http://www.tdem.texas.gov/essentialservices).

“Reopened services” shall consist of the following to the extent they are not already “essential services:”



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1. Retail services that may be provided through pickup, delivery by mail, or delivery to the customer's doorstep.
2. Starting at 12:01 a.m. on Friday, May 1, 2020:
  - a. In-store retail services, for retail establishments that operate at up to 25 percent of the total listed occupancy of the retail establishment.
  - b. Dine-in restaurant services, for restaurants that operate at up to 25 percent of the total listed occupancy of the restaurant; provided, however, that (a) this applies only to restaurants that have less than 51 percent of their gross receipts from the sale of alcoholic beverages and are therefore not required to post the 51 percent sign required by Texas law as determined by the Texas Alcoholic Beverage Commission, and (b) valet services are prohibited except for vehicles with placards or plates for disabled parking.
  - c. Movie theaters that operate at up to 25 percent of the total listed occupancy of any individual theater for any screening.
  - d. Shopping malls that operate at up to 25 percent of the total listed occupancy of the shopping mall; provided, however, that within shopping malls, the food-court dining areas, play areas, and interactive displays and settings must remain closed.
  - e. Museums and libraries that operate at up to 25 percent of the total listed occupancy; provided, however, that (a) local public museums and local public libraries may so operate only if permitted by the local government, and (b) any components of museums or libraries that have interactive functions or exhibits, including child play areas, must remain closed.
  - f. For Texas counties that have filed with DSHS, and are in compliance with, the requisite attestation form promulgated by DSHS regarding five or fewer cases of COVID-19, those in-store retail services, dine-in restaurant services, movie theaters, shopping malls, and museums and libraries, as otherwise defined and limited above, may operate at up to 50 percent (as opposed to 25 percent) of the total listed occupancy.
  - g. Services provided by an individual working alone in an office.
  - h. Golf course operations.
  - i. Local government operations, including county and municipal governmental operations relating to permitting, recordation, and document-filing services, as determined by the local government.
  - j. Such additional services as may be enumerated by future executive orders or proclamations by the governor.

The conditions and limitations set forth above for reopened services shall not apply to essential services. Notwithstanding anything herein to the contrary, the governor may by proclamation identify any county or counties in which reopened services are thereafter prohibited, in the governor's sole discretion, based on the governor's determination in consultation with medical professionals that only essential services should be permitted in the county, including



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based on factors such as an increase in the transmission of COVID-19 or in the amount of COVID-19-related hospitalizations or fatalities.

In providing or obtaining essential services or reopened services, people and businesses should follow the minimum standard health protocols recommended by DSHS, found at [www.dshs.texas.gov/coronavirus](http://www.dshs.texas.gov/coronavirus), and should implement social distancing, work from home if possible, and practice good hygiene, environmental cleanliness, and sanitation. This includes also following, to the extent not inconsistent with the DSHS minimum standards, the Guidelines from the President and the CDC, as well as other CDC recommendations. Individuals are encouraged to wear appropriate face coverings, but no jurisdiction can impose a civil or criminal penalty for failure to wear a face covering.

Religious services should be conducted in accordance with the joint guidance issued and updated by the attorney general and governor.

People shall avoid visiting bars, gyms, public swimming pools, interactive amusement venues such as bowling alleys and video arcades, massage establishments, tattoo studios, piercing studios, or cosmetology salons. The use of drive-thru, pickup, or delivery options for food and drinks remains allowed and highly encouraged throughout the limited duration of this executive order.

This executive order does not prohibit people from accessing essential or reopened services or engaging in essential daily activities, such as going to the grocery store or gas station, providing or obtaining other essential or reopened services, visiting parks, hunting or fishing, or engaging in physical activity like jogging, bicycling, or other outdoor sports, so long as the necessary precautions are maintained to reduce the transmission of COVID-19 and to minimize in-person contact with people who are not in the same household.

In accordance with the Guidelines from the President and the CDC, people shall not visit nursing homes, state supported living centers, assisted living facilities, or long-term care facilities unless to provide critical assistance as determined through guidance from the Texas Health and Human Services Commission (HHSC). Nursing homes, state supported living centers, assisted living facilities, and long-term care facilities should follow infection control policies and practices set forth by the HHSC, including minimizing the movement of staff between facilities whenever possible.

This executive order shall supersede any conflicting order issued by local officials in response to the COVID-19 disaster, but only to the extent that such a local order restricts essential services or reopened services allowed by this executive order, allows gatherings prohibited by this executive order, or expands the list of essential services or the list or scope of reopened services as set forth in this executive order. I hereby suspend Sections 418.1015(b) and 418.108 of the



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Texas Government Code, Chapter 81, Subchapter E of the Texas Health and Safety Code, and any other relevant statutes, to the extent necessary to ensure that local officials do not impose restrictions inconsistent with this executive order, provided that local officials may enforce this executive order as well as local restrictions that are consistent with this executive order; and

WHEREAS, Nelson Wolff, County Judge of Bexar County, Texas, has issued several Executive Orders concerning COVID-19, the latest of which is NW-07 issued on April 29, 2020, which includes additional provisions, not inconsistent with GA-18 issued by Governor Abbott, which apply to all residents of Bexar County, specifically including residents of incorporated cities in Bexar County such as the City of Kirby; and

WHEREAS, pursuant to Chapter 418 of the Texas Government Code, as the presiding officer of the City of Kirby City Council, the City's governing body, the Mayor is designated as the emergency management director of the City of Kirby and may exercise the powers granted to the Governor on an appropriate local scale; and

WHEREAS, a declaration of local disaster and public health emergency includes the ability to reduce the possibility of exposure to disease, control the risk, promote health, compel persons to undergo additional health measures that prevent or control the spread of disease, including isolation, surveillance, quarantine, or placement of persons under public health observation, including the provision of temporary housing or emergency shelters for persons misplaced or evacuated, request assistance from the Governor of state resources, and access funds available for disaster relief and reimbursement at the state and federal level; and

WHEREAS, I, Lisa Pierce, the Mayor of the City of Kirby, Texas, have determined that extraordinary and immediate measures must be taken to respond quickly to prevent and alleviate the suffering of people exposed to and those infected with the COVID-19 virus, as well as those who could potentially be infected or impacted by COVID-19.

NOW, THEREFORE, THIS EMERGENCY DELCARATION NO. 5 IS HEREBY PROCLAIMED BY LISA PIERCE, MAYOR OF THE CITY OF KIRBY, TEXAS:

1. That a local state of disaster and public health emergency is hereby declared for the City of Kirby pursuant to §418.108(a) of the Texas Government Code.
2. Pursuant to §418.108(b) of the Texas Government Code, the state of disaster and public health emergency shall continue **for seven (7) days unless continued or renewed by the City Council.**





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3. Pursuant to §418.108(c) of the Texas Government Code, this declaration of a local state of disaster and public health emergency shall be given prompt and general publicity and shall be filed promptly with the City Secretary.
4. Pursuant to §418.108(d) of the Texas Government Code, this declaration of a local state of disaster and public health emergency activates the City of Kirby's emergency management plan.
5. Pursuant to the Texas Disaster Act of 1975, I, Lisa Pierce, as Mayor of the City of Kirby, in coordination and consultation with local health authorities, may issue further guidance and restrictions within the scope of Executive Orders of the Governor of the State of Texas or of the County Judge of Bexar County or as issued by the Centers for Disease Control.
6. Recommendations by the Centers for Disease Control and the Texas Department of State and Health Services are but not limited to: Washing hands often for 20 seconds and encourage others to do the same; if no soap and water are available, using hand sanitizer with at least 60% alcohol; covering coughs and sneezes with a tissue, then throwing the tissue away; avoiding touching your eyes, nose, and mouth with unwashed hands; disinfecting surfaces, buttons, handles, knobs, and other places touched often; avoiding close contact with people who are sick; and engaging when possible, social distancing by staying away from other people to avoid catching or spreading illness. Social distancing is a term for avoiding crowds and minimizing physical contact and includes not attending concerts, weddings, or other gatherings of more than ten persons, skipping the handshake, and staying at least six (6) feet away from others.
7. Play Structures, public bathrooms, and other amenities in City Parks shall be closed to the public. This does not include open air areas and trails where people can maintain six (6) feet of distance between other people.
8. **Cloth Face Coverings.** All people 10 years or older are *strongly encouraged* to wear a cloth face covering over their nose and mouth when in a public place where it is difficult to keep six feet away from other people such as visiting a grocery store/pharmacy or working in areas that involve close proximity with other coworkers. Coverings may include homemade masks, scarfs, bandanas, or a handkerchief. Residents must continue to maintain social distancing of at least six feet while outside their residence. Employers must provide face coverings and training for appropriate use to employees who are working in an area or activity which will necessarily involve close contact or proximity to co-workers or the public. **IT IS STRONGLY RECOMMENDED THAT YOU NOT OBTAIN OR WEAR MEDICAL MASKS or N-95 RESPIRATORS AS THEY ARE A NEEDED RESOURCE FOR**



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**HEALTH CARE PROVIDERS AND FIRST RESPONDERS.** Our healthcare workers and first responders on the front-line combating COVID-19 must have priority access to medical masks or other personal protective equipment.

Face coverings *do not* need to be worn in the following circumstances:

- When exercising outside or engaging in physical activity outside.
- While driving alone or with passengers who are part of the same household as the driver.
- When doing so poses a greater mental or physical health, safety or security risk.
- While pumping gas or operating outdoor equipment.
- While in a building or activity that requires security surveillance or screening, for example, banks.
- When consuming food or drink.

Please note that face coverings are a secondary strategy to other mitigation efforts. **Face coverings are *not* a replacement for social distancing, frequent handwashing, and self-isolation when sick.** All people should follow CDC recommendations for how to wear and take off a mask.

Residents must keep up the following habits while in public:

- Washing your hands before you leave home and when you return.
  - Staying at least six feet away from others.
  - Avoiding touching your nose or face.
  - Not using disposable masks more than three times.
  - Washing reusable cloth masks regularly to prevent
9. Exercise of Authority and Delegation of Authority. As Emergency Management Director, I (a) declare all rules and regulations that may inhibit or prevent prompt response to this threat suspended for the duration of the COVID-19 public health emergency and (b) hereby delegate to the City Manager the authority to temporarily suspend the application of city ordinances that may interfere with compliance with this Declaration, further authorizing City Manager to exempt the application of provisions of this Declaration in the event she deems it necessary to ensure the continuation of essential services required by the City to continue operations.



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10. Authorization of Additional Resources. By this Declaration, the use of all available resources of state government and political subdivisions to assist in the City's response to the COVID-19 public health emergency is authorized.
11. County Executive Orders. Any Executive Orders issued by the County Judge of Bexar County related to COVID-19 are hereby incorporated in this Declaration respectively as to residents of the City of Kirby.
12. Executive Order or Proclamation of Governor of Texas. Executive Orders GA-16 and GA-18 as well as any other Executive Order or Proclamation of Governor Greg Abbott related to the COVID-19 public health emergency are hereby incorporated into this Declaration along with the latest Memorandum on Identification of Essential Critical Infrastructure Workers During COVID-19 Response issued by the Cybersecurity & Infrastructure Security Agency of the U.S. Department of Homeland Security.
13. That no person shall sell any of the following goods or services for more than the price the person charged for the goods or serves on 11:59 PM on Thursday March 19, 2020 and continuing during the pendency of this Declaration:  

Groceries, beverages, toilet articles, ice ; Restaurant, cafeteria, and boarding-house meals; and Medicine, pharmaceutical, and medical equipment and supplies.
14. That people who are sick should stay at home and not engage in any activity outside of their residence unless related to treatment or health care. If someone in a household has tested positive for COVID-19, then the other members of the household should consider themselves positive if they become symptomatic and follow the current policies and procedures in place for isolation and quarantine.
15. Any person, firm, corporation, agent, or employee thereof who violates any of the provisions of this Emergency Declaration commits an offense that is considered a Class C misdemeanor and each day the violation continues shall be a separate offense punishable by a fine of not more than \$500. The Certificate of Occupancy for a business may be suspended or cancelled for violation of this Emergency Declaration. A culpable mental state is not required for the commission of an offense under this ordinance and need not be proved. The penalty provided for in this ordinance is in addition to any other remedies that the City may have under City ordinances and state law.
16. The sections, paragraphs, sentences, clauses and phrases of this Declaration are severable and if any phrase, clause, sentence, paragraph or section of the Declaration should be declared invalid by the final judgement or decree of any court or competent jurisdiction,



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such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections that can be given effect without the invalid provision.

17. As Mayor, I further reserve all other authority and powers conferred by state law to respond as necessary to this situation.

This proclamation shall take effect immediately from and after its issuance.

ORDERED this 5th day of May, 2020.

MAYOR LISA B. PIERCE

City of Kirby